

Remarks

Claims 1-22 are pending in the application, of which claim 22 is allowed; claims 1-5, 7-10 and 12-21 are rejected; and claims 6 and 10 are objected to. By this paper, Applicant has amended claim 1 to overcome a typographical error. Other amendments to claims are set forth below. Additionally, Applicant has added new claims 23-25.

Information Disclosure Statement

Applicant appreciates the Examiner's consideration of the Information Disclosure Statement submitted on March 2, 2004.

Drawings

Applicant appreciates the Examiner's approval of the drawings submitted on March 2, 2004.

Claim Rejections - 35 U.S.C. § 112

The Examiner has rejected claims 12 and 19 under 35 U.S.C. § 112, second paragraph, because the phrase "wherein the first structural further" is indefinite in claim 12, line 1. Accordingly, Applicant has amended claim 12 by this paper to insert the term "member" to overcome this informality. Thus, Applicant respectfully requests that the Examiner withdraw the rejection of claims under 35 U.S.C. § 112.

Claim Rejections - 35 U.S.C. § 103

The Examiner has rejected claims 1-5, 7-10 and 20-21 under 35 U.S.C. § 103(a) as being unpatentable over Gress (EP 0,532,132 A2) in view of Kahle (U.S. Patent No. 6,578,856 B2).

Claim 1 requires:

...whereby the second structural member bottom end is translated **towards** the first structural member bottom end for providing a compact collapsed stand...

The Examiner alleges that Gress discloses this feature. In contrast, Gress discloses a second structural member bottom end that is translated *away from* the first structural member bottom end for collapsing the stand.

In order to establish a *prima facie* case of obviousness, the combination of references must disclose or suggest all of the claim limitations. (MPEP § 2143). Gress does not disclose or suggest the above-quoted limitation of claim 1; rather Gress discloses exactly the opposite of what is claimed. The Kahle reference fails to teach or suggest this claim limitation as well. Since the combined references alone and in combination fail to disclose or suggest all of the claim limitations of claim 1, the Examiner has failed to establish a *prima facie* case of obviousness for claim 1. Notwithstanding, Applicant traverses the combination of references and the rejections of claims 2-5 and 7-10 which depend from claim 1.

Claim 20 is a method for collapsing and expanding a stand for a bench top power tool. Claim 20 requires "translating an upper portion of a slidable structural member towards an upper portion of a pivotal structural member" as the stand is collapsed. Gress and Kahle alone and in combination fail to teach or suggest this limitation. Therefore, claim 20 is nonobvious over Gress in view of Kahle.

Claim 21 depends from claim 20 and therefore is nonobvious over the cited references for at least the reasons stated above with reference to claim 20.

Reply to Office Action of October 15, 2004

Allowable Subject Matter

Applicant appreciates the Examiner's indication that claims 6 and 11-19 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph and to include all of the limitations of the base claim and any intervening claims. By this paper, claim 12 has been amended to overcome the rejection under 35 U.S.C. § 112, second paragraph. Since Applicant asserts that claims 6 and 11-19 depend from allowable claims, Applicant is refraining from rewriting these claims as suggested by the Examiner, at this time. However, Applicant reserves the right to rewrite these claims in allowable form as suggested by the Examiner, later in the prosecution of this Application.

Applicant appreciates the Examiner's indication that claim 22 is allowed over the prior art.

Conclusion

Applicant respectfully asserts that the application is in condition for allowance, which allowance is hereby respectfully requested.

Respectfully submitted,

Kenneth M. Brazell et al.By 

Michael D. Turner

Reg. No. 52,306

Attorney/Agent for Applicant

Date: 1/17/05

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351